

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1036

Introduced by Assembly Member Koretz

February 22, 2005

An act to amend Section ~~530.5~~ 786 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 1036, as amended, Koretz. Identity theft.

Existing law provides that the jurisdiction of a criminal action for unauthorized use of personal identifying information includes the county in which the theft of the information occurred and the county in which the information was used for an illegal purpose.

This bill would expand these provisions to include unauthorized retention and transfer of personal identifying information. This bill would also add the county in which the victim resided at the time the offense was committed to the jurisdictions in which a criminal action may be brought for commission of these crimes.

~~Existing law provides that every person who willfully obtains personal identifying information about another person, as defined, and uses that information for any unlawful purpose is guilty of a crime punishable by imprisonment in a county jail not to exceed one year, a fine not to exceed \$1,000, or both, or by imprisonment in the state prison, a fine not to exceed \$10,000, or both.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 530.5 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~SECTION 1. Section 786 of the Penal Code is amended to~~
4 ~~read:~~

5 786. (a) When property taken in one jurisdictional territory
6 by burglary, carjacking, robbery, theft, or embezzlement has
7 been brought into another, or when property is received in one
8 jurisdictional territory with the knowledge that it has been stolen
9 or embezzled and the property was stolen or embezzled in
10 another jurisdictional territory, the jurisdiction of the offense is in
11 any competent court within either jurisdictional territory, or any
12 contiguous jurisdictional territory if the arrest is made within the
13 contiguous territory, the prosecution secures on the record the
14 defendant's knowing, voluntary, and intelligent waiver of the
15 right of vicinage, and the defendant is charged with one or more
16 property crimes in the arresting territory.

17 (b) (1) The jurisdiction of a criminal action for unauthorized
18 use, *retention, or transfer* of personal identifying information, as
19 defined in Section 530.5 of the Penal Code, shall also include the
20 county where the theft of the personal identifying information
21 occurred, *the county in which the victim resided at the time the*
22 *offense was committed*, or the county where the information was
23 used for an illegal purpose. If multiple offenses of unauthorized
24 use of personal identifying information, all involving the same
25 defendant or defendants and the same personal identifying
26 information belonging to the one person, occur in multiple
27 jurisdictions, any one of those jurisdictions is a proper
28 jurisdiction for all of the offenses.

29 (2) When charges alleging multiple offenses of unauthorized
30 use of personal identifying information occurring in multiple
31 territorial jurisdictions are filed in one county pursuant to this
32 section, the court shall hold a hearing to consider whether the
33 matter should proceed in the county of filing, or whether one or
34 more counts should be severed. The district attorney filing the
35 complaint shall present evidence to the court that the district
36 attorney in each county where any of the charges could have
37 been filed has agreed that the matter should proceed in the county
38 of filing. In determining whether all counts in the complaint

1 should be joined in one county for prosecution, the court shall
2 consider the location and complexity of the likely evidence,
3 where the majority of the offenses occurred, the rights of the
4 defendant and the people, and the convenience of, or hardship to,
5 the victim and witnesses.

6 (c) This section shall not be interpreted to alter victims' rights
7 under Section 530.6.

8 ~~530.5. (a) Every person who willfully obtains personal~~
9 ~~identifying information, as defined in subdivision (b), of another~~
10 ~~person, and uses that information for any unlawful purpose,~~
11 ~~including to obtain, or attempt to obtain, credit, goods, services,~~
12 ~~or medical information in the name of the other person without~~
13 ~~the consent of that person, is guilty of a public offense, and upon~~
14 ~~conviction therefor, shall be punished either by imprisonment in~~
15 ~~a county jail for a period not to exceed one year, a fine not to~~
16 ~~exceed one thousand dollars (\$1,000), or both that imprisonment~~
17 ~~and fine, or by imprisonment in the state prison, a fine not to~~
18 ~~exceed ten thousand dollars (\$10,000), or both that imprisonment~~
19 ~~and fine.~~

20 (b) ~~“Personal identifying information,” as used in this section,~~
21 ~~means the name, address, telephone number, health insurance~~
22 ~~identification number, taxpayer identification number, school~~
23 ~~identification number, state or federal driver's license number, or~~
24 ~~identification number, social security number, place of~~
25 ~~employment, employee identification number, mother's maiden~~
26 ~~name, demand deposit account number, savings account number,~~
27 ~~checking account number, PIN (personal identification number)~~
28 ~~or password, alien registration number, government passport~~
29 ~~number, date of birth, unique biometric data including~~
30 ~~fingerprint, facial scan identifiers, voice print, retina or iris~~
31 ~~image, or other unique physical representation, unique electronic~~
32 ~~data including identification number, address, or routing code,~~
33 ~~telecommunication identifying information or access device,~~
34 ~~information contained in a birth or death certificate, or credit card~~
35 ~~number of an individual person.~~

36 (c) ~~In any case in which a person willfully obtains personal~~
37 ~~identifying information of another person, uses that information~~
38 ~~to commit a crime in addition to a violation of subdivision (a),~~
39 ~~and is convicted of that crime, the court records shall reflect that~~

1 ~~the person whose identity was falsely used to commit the crime~~
2 ~~did not commit the crime.~~
3 ~~(d) Every person who, with the intent to defraud, acquires,~~
4 ~~transfers, or retains possession of the personal identifying~~
5 ~~information, as defined in subdivision (b), of another person is~~
6 ~~guilty of a public offense, and upon conviction therefor, shall be~~
7 ~~punished by imprisonment in a county jail not to exceed one~~
8 ~~year, or a fine not to exceed one thousand dollars (\$1,000), or by~~
9 ~~both that imprisonment and fine.~~